IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL Nos: 1142 of 2003, 1146 of 2003, 1147 of 2003, 1192 of 2003, 1193 of 2003, 1228 of 2003, 1266 of 2003 and 1267 of 2003

W.A.No.1142/2003:

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP NO: 5153 of 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Limited,
   Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager (Finance) Nizam Sugar Limited,
   Shakkar Bhavan, Basheerbagh Hyderabad.

... APPELLANTS

AND

1. Sri G. Surya Rao S/o. Hanumantha Rao
   Retired as Senior Manager Cane Development at Mombajpally,
   Medak District R/o. M.C.H, Block No.14 Domulguda,
Hyderabad District
2. Government of A.P, Industries & Commerce Department,
   Secretariat, Hyderabad rep. by its Secretary.

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR. VISHNU VARDHAN REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

W. A. No.1146/ 2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP No: 5957 OF 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Limited, Shakkar Bhavan,
   Basheerbagh, Hyderabad.
2. General Manager (Finance) Nizam Sugar Limited,
   Shakkar Bhavan Basheerbagh, Hyderabad.

... APPELLANTS

AND

1. S. Krishnama Chary S/o. S. Narayana Chary,
   R/o. Qrt. No. J.O. 21, The Nizam Sugars Colony, Post: Shakar Nagar, Nizamabad District.
2. Government of A.P, Industries & Commerce Department,
   Secretariat, Hyderabad rep. by its Secretary.

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR. VISHNU VARDHAN REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

W.A.No.1147/ 2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP No: 6090 of 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Ltd. Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager (Finance), Nizam Sugar Limited,
   Shakkar Bhavan, Basheerbagh Hyderabad.

... APPELLANTS

AND

1. Ch. Jaya Rama Das S/o. Ch. Suryanarayana,
   R/o. H.No. K-7, Shakkar Nagar, Bodhan, Nizamabad District.
2. Government of A.P Industries & Commerce Department,
   Secretariat, Hyderabad rep. by its Secretary.

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR. R. VINOD REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

W.A.No:1192/ 2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 02/05/2003 in W.P.No: 5367 OF 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Ltd,

Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager (Finance) Nizam Sugar Limited,
Shakkar Bhavan, Basheerbagh, Hyderabad.

... APPELLANTS

AND

1. P. Rajogopal, S/o. P. Narayana,
R/o. Flat No. 401, Yadagiri Apartments, Near Narayana Coaching Centre, Musarambagh, Dilsukhnagar, Hyderabad.
2. Government of A.P. Industries & Commerce Dept. Secretariat,

Hyderabad, Rep by its Secretary,

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR. R. VINOD REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

W.A.No:1193/ 2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP No: 5955 OF 2003 on the file of the High Court.)

1. The Managing Director, Nizam Sugar Limited,
Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager (Finance) Nizam Sugar Limited,
Shakkar Bhavan, Basheerbagh, Hyderabad.

... APPELLANTS

AND

1. Y.Vijay Kumar Babu, S/o. Late Y.Venkatramaiah,
R/o. H.No. 1050 (old), Soubhagyanagar Colony,Opp. I.D.P.L. Colony, Balanagar, Hyderabad.
2. Govt. of A.P. Industries & Commerce Dept. Secretariat,

Hyderabad, Rep. by its Secretary,

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR. M.VISHNU VARDHAN REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

W.A.No:1228/2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP.No: 6102 OF 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Limited, Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager (Finance) Nizam Sugar Limited, Shakkar Bhavan, Basheerbagah, Hyderabad.

... APPELLANTS

AND

1. J. Kameswara Rao, S/o. Late J. Satti Raju, R/o. Plot No. 140, South End Park, Mansoorabad, L.B. Nagar, Hyderabad -68
2. Govt. of A.P. Industries & Commerce Department, Secretariat, Hyderabad. rep. by its Secretary,

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR. R. VINOD REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

W.A.No:1266 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP No: 5155 of 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Limted, Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager, (Finance) Nizam Sugar Limted, Shakkar Bhavan, Basheerbagh, Hyderabad.

... APPELLANTS

AND

1. Kesara Ramesh Babu, S/o. Venkata Sundariah, R/o. Quarter No. K-4, NSL Colony, Shakkarnagar, Bodan Mandal, Nizamabad District.
2. Govt. of A.P., Industries & Commerce Dept., Secretariat,

Hyderabad, Rep. by its Secretary,

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No.1: MR.M.VISWANADHAM

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES & COMMERCE

W.A.No:1267/2003

(Writ Appeal under Clause 15 of the Letters Patent against the order dated 30/04/2003 in WP No: 5585 OF 2003 on the file of the High Court.)

Between:

1. The Managing Director, Nizam Sugar Limited, Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager, (Finance) Nizam Sugar Limited, Shakkar Bhavan, Basheerbagh, Hyderabad.

... APPELLANTS

AND

1. K. Sai Baba, S/o. K. Srimannarayana, Lachayapet, R/o. H.No. 1-1-212/A & B, Flat No. 202, K.P. Apartments, Chikkadpally, Hyderabad.
2. Govt. of A.P. Industries & Commerce Dept Secretariat, Hyderabad, rep.by its Secretary.

...RESPONDENTS

Counsel for the Appellants: THE ADDITIONAL ADVOCATE GENERAL

Counsel for the Respondent No. No.1: MR. R. VINOD REDDY

Counsel for the Respondent No.2: G.P. FOR INDUSTRIES

The Court made the following:

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COMMON JUDGMENT:(per Hon'ble Smt. justice T.Meena Kumari)

This writ appeal is filed by the Nizam Sugars Ltd.- appellant herein aggrieved by the common order in W.P.No:5955 of 2003 and batch and 5153 of 2003 and batch, dated 30.4.2003, under which the learned single Judge allowed the writ petitions to the extent indicated therein.

W.Ps.5153, 5155, 5585 and 5793 of 2003 have been filed by the writ petitioners seeking for a direction to declare the action of the Nizam Sugars Ltd. -appellant in withholding the V.R.S. amounts as illegal and arbitrary. While allowing the writ petitions in W.Ps.5153, 5155 and 5585 of 2003 directing the Management-appellants to extend the benefits under V.R.S. to the respective writ petitioners within a period of six Weeks from the date of receipt copy of that order, the learned single Judge disposed of W.P.5793 of 2003 directing the Management-appellant to conclude the disciplinary proceeding against the writ petitioner therein within a period of six months from the date of receipt of copy of that order.

Another set of writ petitions in W.P.Nos:5955, 5957, 6090 and 6102 of 2003 have been preferred by the writ petitioners seeking a direction to the Nizam Sugars Ltd. -appellants to declare the action of the Management in issuing chargesheet, dated 14.3.2003 as illegal and arbitrary and to direct the Management to make the payment of V.R.S. amounts. The learned single Judge having relied on the judgment of the Apex Court reported in BALAJIT SINGH V. STATE OF HARYANA () and following the judgment in W.P.No:5153 of 2003 and batch, allowed the writ petitions setting aside the chargesheets issued against the writ petitioners.

Having aggrieved by the same, the above writ appeals have been preferred by the Nizam Sugars Ltd. -appellant herein.

Since the issue involved in all the appeals, is one and the same and the parties are one and the same and the order impugned herein is a common order in

two separate set of writ petitions, these appeals are disposed of by common judgment.

Heard the learned Addl. Advocate General appearing on behalf of the Nizam Sugars Ltd. -appellant and the learned counsel appearing on behalf of the writ petitioners and the learned G.P. for Industries and Commerce.

It is contended by the learned G.P. appearing on behalf of the Nizam Sugars Ltd. -appellant that the conditions incorporated in the office order dated 31.10.2002 of the Nizam Sugars Limited, are based on the G.O.Ms.No:14, Public Enterprises (II) Department, dated 1.5.2002 and the claims of the employees under the V.R.S. scheme will be considered subject to the fulfillment of conditions stipulated in the office order dated 31.10.2002.

It is further contended that chargesheets were issued against the writ petitioners in W.P.Nos:5955, 5957, 6090 and 6102 of 2002 after the issuance of willing letters and in view of the fact that they have not produced the certificates from the Head of the Departments with regard to the satisfaction of the works, their benefits could not be released. It is further contended that as per the conditions stipulated in the office order in question, their claims cannot be considered and the learned single Judge, is not justified in setting aside the same. It is further contended that since the other writ petitioners have also not complied with the conditions stipulated in the office order in question, their claims cannot be considered.

It is lastly contended that the direction issued by the learned single Judge, for payment of interest at 18% is not justified in as much as the same is not a condition precedent under the V.R.S. scheme.

On the other hand, it is argued by the learned counsel appearing on behalf of the writ petitioners that they could not obtain the certificates from the Heads of the Department in view of the situation that is beyond their control during the period when there was privatization of Nizam Sugars Factory. It is further argued that the findings of the learned single Judge, are justified and they cannot be interfered with in all the appeals.

We have perused the order impugned and the material available on record.

The issue involved in all the appeals, revolves around the Office order issued by the appellant on 31.10.2002, wherein it is stipulated as under:

"His/Her accounts will be settled as per G.O.Ms.No:14, dated 1.5.2002 subject to rules of the Company applicable to him/her and also subject to:

(i)production of No due certificate

(ii)Certificate from Head of the Department/Functional Head at Head Office that he/she has satisfactorily completed all the assigned works, &

(iii)Out come of any disciplinary proceedings, such as Criminal Investigation/Domestic enquiries pending against him/her"

As a matter of fact, the above office order has not been challenged in these proceedings. However, in view of the fact that the acceptance of the offer for voluntary retirement is an out come of the office order, it has to be examined as to whether the action of the appellant in not releasing the V.R.S. benefits, is in conformity with the said order or not and whether such an action is justifiable or not.

In so far as condition No: (i) of the above office order, is concerned, as rightly observed by the learned single Judge, no exception can be claimed in that regard.

In so far as condition No: (ii) is concerned, it appears that the consent given by the writ petitioners opting for Voluntary Retirement straightaway, is accepted as per G.O.Ms.No:14, dated 1.5.2002 and they are relieved from the services of the company with effect from 31.10.2002 A.N. However, it is made clear that their accounts will be settled subject to the fulfillment of the conditions stipulated therein. Therefore, it can be inferred that it is a conditional offer and in this regard, there is an obligation caste upon the writ petitioners to fulfill the conditions stipulated as on the date of passing of the Office order dated 31.10.2002.

Hence, We are of the opinion that the finding of the learned single Judge that such assessments are required to be made during the course of employment and not after the employee is permitted to retire, is beyond the scope of the writ petitions and this Court is also of the view that setting aside of condition ;No:2 by the learned single Judge, is beyond the scope of the writ petition as the said relief is not sought for by the writ petitioners in as much as the petitioners filed the writ petitions seeking to declare the action of the appellant in withholding the V.R.S. benefits and to direct

the appellant to make the payment of the same. Consequently, the said finding is liable to be set aside.

In so far as condition No: (iii) is concerned, We have no hesitation to hold that the contention of the learned counsel appearing on behalf of the appellant that the charge memos are continued to be pending as on the date of Office order dated 31.10.2002 and therefore, the benefits under V.R.S. scheme, cannot be released, has no legal force for the reason that there is no material as such placed before this Court that any disciplinary proceedings are pending as on the date of relieving the writ petitioners i.e., 31.12.2002, so as to bring them under the purview of condition No: (iii). In the circumstances of the case and in the absence of any disciplinary proceedings pending against the petitioners and in view of the fact that the charge memos have been issued after the issuance of the above office order, We are of the opinion that in anticipation of the future action, if any, the cases of the writ petitioners cannot be brought under the purview of this condition No: (iii) and as such, condition No: (iii) cannot be made applicable in case of the petitioners. Accordingly, the finding of the learned single Judge in this regard, is confirmed.

It is an admitted fact that the offer made by the writ petitioners under the Voluntary Retirement Scheme has been accepted and they have been relieved in pursuance of the same. There is also no dispute that no disciplinary proceedings are pending against the writ petitioners till today. Even the counter filed by the Nizam Sugars Ltd. -appellant does not disclose anything as to the pendency of any enquiry pending against the writ petitioners.

In this back ground of the matter, it is needless to observe that it is held by the Apex Court in a catena of judgments that as and when an employee retires on attaining the age of superannuation of age or under the V.R.S. scheme, the relationship between the employee and the employer ceases. It is the contention of the appellant that as there was no opportunity for them to assess the work basing on the records, the learned single Judge ought to have afforded an opportunity to assess the work. But, We are not in agreement with the said contention in view of the changed circumstances and the change of management and also afflux of time also considering the fact of restoration of clause (ii). It is also argued that the interest granted by the learned single Judge, is on a higher side.

In the facts and circumstances of the case and for the reasons in the

foregoing paragraphs, We direct the Director/Commissioner of Sugar Cane/Managing Director of the Nizam Sugars Ltd., to verify the A.C.Rs. and assessment records of the writ petitioners for the period of three years preceding 31.12.2002 and issue certificates on or before 28.2.2005. It is made clear that in case there are no adverse remarks as to their work for the period of three years preceding 31.12.2002, We direct the Nizam Sugars Ltd.-appellant to release the benefits accrued to the writ petitioners under the V.R.S. Scheme on or before 31st March, 2005. It is further made clear that as there is a delay in payment of the benefits, such payments will be subject to payment of interest at 6% p.a.

The order of the learned single Judge is modified to the extent indicated above and all the appeals are disposed of accordingly.

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Justice T.Meenakumari

25th Jannuary, 2005

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justice S.Ananda Reddy

Gurc.

Copies to

1. The Managing Director, Nizam Sugar Limited,
   Shakkar Bhavan, Basheerbagh, Hyderabad.
2. General Manager (Finance) Nizam Sugar Limited,
   Shakkar Bhavan, Basheerbagh Hyderabad.

3. The Director, Nizam Sugar Ltd., Sakkar Bhavan, Basheerbagh, Hyderabad.

4. The Commissioner of Sugarcane, Nizam Sugar Ltd, Sakkar Bhavan, Basheerbagh,Hyderabad.

5. The Secretary, Government of A.P, Industries & Commerce Department, Secretariat, Hyderabad

6. Two C.Cs. to the Addl. Advocate General, High Court Buildings, Hyderabad (OUT)

7. Two C.Cs. to the G.P. for Industries, High Court Buildings, Hyderabad (OUT)

8. Two C.D copies.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT APPEAL Nos: 1142 of 2003, 1146 of 2003, 1147 of 2003, 1192 of 2003, 1193 of 2003, 1228 of 2003, 1266 of 2003 and 1267 of 2003

(Common judgment delivered by Smt.Justice T.Meena Kumari)

25th Jannuary, 2005